
A BILL FOR AN ACT

RELATING TO ADULT ENTERTAINMENT PRODUCTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that many individuals
2 have been involuntarily exposed to products of a prurient nature
3 while shopping. This type of exposure is magnified when adult
4 entertainment products are visible to minors. Act 32, Session
5 Laws of Hawaii 2006, was enacted to protect youth and the
6 general public from unwelcome exposure to adult entertainment
7 products by requiring individuals and businesses that sell adult
8 entertainment products to display the products in a separate
9 area of the premises and obscure the products in that area from
10 view by persons in other parts of the premises or off the
11 premises. This requirement was designed to protect the general
12 public, especially minors, from being involuntarily exposed to
13 these materials.

14 The legislature also finds that adult entertainment
15 products do not have to be pornographic to be offensive to a
16 substantial portion of the community and inappropriate for
17 minors. Accordingly, the definition of "adult entertainment
18 product" in Act 32, as introduced, focused on the explicitly



1 sexual nature of these products and, rather than prohibiting
2 them, established reasonable, time, place, and manner
3 restrictions on their sale. However, in an apparent effort to
4 provide an objective, legally defined standard of the products
5 in question, the legislature made the restrictions applicable
6 only to pornographic materials.

7 The legislature further finds that the definition of "adult
8 entertainment products" in Act 32 made it unenforceable.
9 Requiring that the products be proven "pornographic" is
10 virtually impossible because the Hawaii supreme court
11 effectively held in *State v. Kam*, 69 H. 483, 748 P.2d (1988),
12 that only materials that depict children engaged in sexual acts,
13 sexually violent killings, or bestiality can be deemed
14 pornographic. The point at which material can be deemed
15 offensive and subject to constitutionally reasonable limitation
16 is reached long before the materials stoop to that level.

17 The purpose of this Act is to impose reasonable time,
18 place, and manner restrictions on the display for sale of
19 sexually explicit materials.

20 SECTION 2. Section 489X-1, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:

22 "(b) For the purposes of this section:



1 "Adult entertainment product" means any [~~merchandise that~~
2 ~~is pornographic as defined in section 712-1210.~~] product
3 designed, or primarily used for, the sexual gratification of the
4 user including, but not limited to, videos, devices, and novelty
5 items of an explicit sexual nature.

6 "Premises" means any building, structure, or place, or any
7 separate part or portion thereof."

8 SECTION 3. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun, before its effective date.

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect upon its approval.

14

INTRODUCED BY:

Calvin K. Day

BY REQUEST
JAN 22 2008



Report Title:

Adult Entertainment Products; Display for Sale

Description:

Amends the definition of "adult entertainment products" in section 489X-1, HRS.

